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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,895	07/24/2001	GERALD ANTON OFNER	046-7001.30	3043

466 7590 10/04/2005

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EXAMINER

FINEMAN, LEE A

ART UNIT PAPER NUMBER

2872

DATE MAILED: 10/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 09/889,895	Applicant(s) OFNER, GERALD ANTON	
	Examiner Lee Fineman	Art Unit 2872	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 July 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1, 6-62, 64 and 65 is/are pending in the application.
- 4a) Of the above claim(s) 6-61 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 62, 64 and 65 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07 January 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

This Office Action is in response to an amendment filed 11 July 2005 in which claim 65 was amended. Claims 1, 6-62, 64 and 65 are pending of which claims 6-61 are withdrawn.

#### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

#### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the optical element in the internal beam between the objective and the eyepiece (Fig. 12 has the optical element outside the internal beam path as claimed) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 64 and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al., U.S. Patent No. 6,134,048 in view of AT-307.

Kato et al. disclose a vision aid (figs. 19A and 19B) in the form of telescopic spectacles with two lens systems which each comprise at least one objective lens (39 or 40) and one eyepiece (5 or 6) having an internal beam path therebetween (figs. 19A and 19B), a focusing means (13) which changes the focal length to adjust the lens systems according to the distance of the telescopic spectacle from the object (column 10, lines 33-40), and at least one optical element (41 or 42) that is distinct from said at least one objective lens and said eyepiece (it is distinct in at least so far as it is physically separated from the other lenses) positioned and arranged to match parallaxes between the lens systems of the vision aid to the focal length which has been set

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according to the distance of the telescopic spectacles from an object (column 10, lines 44-50), such that in each said lens system, said at least one optical element is movable along a path that crosses said internal beam path for changing an angle between external beam paths which run out of the respective lens systems toward the object; and wherein said at least one optical element is structured and arranged to match parallaxes without changing distance between respective eyepieces (figs. 19A and 19B). Kato et al. disclose the claimed invention except for the path being curved and a means for changing the magnification factor of the lens systems and the focusing means being an autofocusing means. Kato et al. teaches in another embodiment (figs. 4A and 4b) wherein optical elements can be moved along a curved path (27 and 28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to incorporate the curved path guide bars into this embodiment of Kato et al. to further prevent eye strain when looking at objects at close distances (see Kato, column 6, lines 20-28). AT-307 teaches telescopic spectacles with two lens systems (fig. 1) with a means for changing the magnification factor of the lens systems (13, 14) and an autofocusing means (4). It would have been obvious to one of ordinary skill in the art at the time the invention was made to add the means for changing the magnification factor of AT-307 to the system of Kato et al. to provide the viewer with more flexibility in viewing the image with a broader range of magnifications and to make the focusing mean of Kato et al. an autofocusing means as suggested by AT-307 to provide fast, accurate focusing of the object.

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5. Claim 62 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. in view of AT-307 as applied to claim 1 above, and further in view of Kanda, U.S. Patent No. 4,886,340.

Kato et al. in view of AT-307 as applied to claim 1 above discloses the claimed invention except for wherein in each said lens system, the at least one optical element is rotatable along an axis perpendicular to said curved path so that said at least one optical element tilts when said at least one optical element is moved along said curved path. Kanda teaches a vision aid (fig. 5) in the form of telescopic spectacles with two lens systems with an optical element (5) that is movable along a curved path (from connector 13) and wherein said optical element is rotatable along an axis perpendicular to said curved path so that said at least one optical element tilts when said at least one optical element is moved along said curved path (column 7, lines 23-31). It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the optical element of Kato et al. in view of AT-307 rotatable along an axis perpendicular to said curved path for tilting as suggested by Kanda to provide additional degrees of freedom in designing/aligning the lens system.

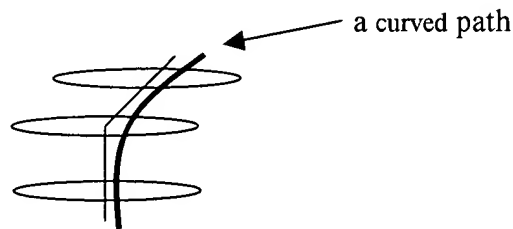
### ***Response to Arguments***

6. Applicant's arguments filed 11 July 2005 have been fully considered but they are not persuasive.

Applicant argues that because the cam path in figs. 4A and 4B of Kato has an angle that it cannot be considered a curved path (see remarks page 15, lines 3-11). The examiner respectfully disagrees. The claims are not limited to requiring the center or any other particular single portion

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of the optical element to move along a curved path, nor are they limited to a curved guide groove defining the curved path. Thus a curved path may be defined as illustrated below, which Kato's element follows, when traversing the path produced by the moving arrangement shown in figs. 4 and 5.



Applicant further argues that one of ordinary skill would not be motivated to add the means for changing the magnification factor of AT-307 to Kato because such a device would not function properly (remarks, page 15, line 16 to page 16, line 14). The applicant is reminded that the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Clearly adding zoom function as suggested by AT-307 to the system of Kato would provide the viewer with more flexibility in viewing the image with a broader range of magnifications.

### *Conclusion*

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



LAF  
September 28, 2005

  
MARK A. ROBINSON  
PRIMARY EXAMINER